



February 17, 2009

SENATE BILL No. 524

DIGEST OF SB 524 (Updated February 11, 2009 4:18 pm - DI 110)

Citations Affected: IC 4-34.1; IC 14-8; IC 14-10; IC 14-20; noncode.

Synopsis: Department of heritage and cultural resources. Establishes the department of Indiana heritage and cultural resources and a fund to support the department. Allows admission fees to be established for historic sites. Makes changes to the duties of the division of state museums and historic sites. Establishes the historic site fund, and requires the admission fees and historic property sales to be deposited in the historic site fund (instead of in the museum acquisition fund). Provides that at least 51% of the fees collected from a particular historic site must be used for the educational programs conducted at the historic site and for the maintenance and operation of the historic site. Provides for the transfer of personnel, property, and responsibilities to the department of Indiana heritage and cultural resources.

Effective: July 1, 2009.

Merritt

January 15, 2009, read first time and referred to Committee on Commerce, Public Policy & Interstate Cooperation.
February 16, 2009, reported favorably — Do Pass.

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SB 524—LS 7363/DI 77+



February 17, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 524

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-34.1 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2009]:

4 **ARTICLE 34.1. DEPARTMENT OF INDIANA HERITAGE**
5 **AND CULTURAL RESOURCES**

6 **Chapter 1. Definitions**

7 **Sec. 1. The definitions in this chapter apply throughout this**
8 **article.**

9 **Sec. 2. "Commissioner" refers to the commissioner of the**
10 **department appointed under IC 4-34.1-3-2.**

11 **Sec. 3. "Department" refers to the department of Indiana**
12 **heritage and cultural resources established by IC 4-34.1-2-1.**

13 **Sec. 4. (a) "Heritage" means all past and present manifestations**
14 **in Indiana of:**

15 **(1) Indiana history and folklore;**

16 **(2) Indiana architecture, engineering, landscape design, and**
17 **planning;**

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- (3) physical features created or shaped by human hands that have value and meaning to the people of Indiana; and
- (4) surviving remains of prehistoric and historic cultures.
- (b) The term includes manifestations that are:
 - (1) tangible or intangible;
 - (2) in handwritten, printed, audiovisual, oral, or electronic form;
 - (3) designed and constructed or accrued over the passage of time; and
 - (4) located above or below ground.

Chapter 2. Establishment of Department of Indiana Heritage and Cultural Resources; Indiana Heritage and Cultural Resources Fund

Sec. 1. The department of Indiana heritage and cultural resources is established.

Sec. 2. The department consists of the office of the commissioner.

Sec. 3. The purpose of the department is to:

- (1) promote and facilitate the preservation, enhancement, enjoyment, and educational interpretation of the varied forms of heritage; and
- (2) perform other educational functions.

Sec. 4. (a) The department may accept gifts, bequests, and devises of personal and real property for the maintenance, use, or benefit of the department under terms and conditions and with obligations, liabilities, and burdens that the commissioner believes are in the best interest of the department.

(b) The department may not assume any obligation, liability, or burden that exceeds appropriations made by law for the payment of such obligations, liabilities, and burdens.

Sec. 5. (a) The department of Indiana heritage and cultural resources fund is established to provide money for the department to carry out the duties of the department. The department shall administer the fund.

(b) The fund consists of the following:

- (1) Appropriations to the department.
- (2) Assets transferred to the department under a statute providing for the transfer of all or part of the powers and duties of another agency to the department.
- (3) The proceeds from the sale of items by the department as directed by law.
- (4) Gifts of money or the proceeds from the sale of gifts

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1 donated to the department.

2 **(5) Investment earnings from any part of the fund.**

3 **(c) Subject to the approval of the budget agency, the department**
 4 **may establish additional accounts or combine existing accounts as**
 5 **necessary to carry out the duties of the department.**

6 **Chapter 3. Office of the Commissioner of the Department**

7 **Sec. 1. The office of the commissioner of the department is**
 8 **established.**

9 **Sec. 2. The governor shall appoint the commissioner, who serves**
 10 **at the pleasure of the governor. The commissioner is the executive**
 11 **and chief administrative officer of the department.**

12 **Sec. 3. The commissioner is entitled to compensation in an**
 13 **amount to be fixed by the budget agency with the approval of the**
 14 **governor.**

15 SECTION 2. IC 14-8-2-77, AS AMENDED BY P.L.120-2008,
 16 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2009]: Sec. 77. "Division" has the following meaning:

18 (1) For purposes of IC 14-9-8, the meaning set forth in
 19 IC 14-9-8-2.

20 (2) For purposes of IC 14-20-1 **and IC 14-20-1.1**, the meaning set
 21 forth in IC 14-20-1-2.

22 (3) For purposes of IC 14-21, the division of historic preservation
 23 and archeology.

24 (4) For purposes of IC 14-22, the division of fish and wildlife.

25 (5) For purposes of IC 14-24, the division of entomology and
 26 plant pathology.

27 (6) For purposes of IC 14-25.5, the division of water.

28 (7) For purposes of IC 14-31-2, the meaning set forth in
 29 IC 14-31-2-4.

30 (8) For purposes of IC 14-32, the division of soil conservation of
 31 the Indiana state department of agriculture established by
 32 IC 15-11-4-1.

33 (9) For purposes of IC 14-37, the division of oil and gas.

34 SECTION 3. IC 14-8-2-107, AS AMENDED BY P.L.85-2008,
 35 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2009]: Sec. 107. "Fund" has the following meaning:

37 (1) For purposes of IC 14-9-5, the meaning set forth in
 38 IC 14-9-5-1.

39 (2) For purposes of IC 14-9-8-21, the meaning set forth in
 40 IC 14-9-8-21.

41 (3) For purposes of IC 14-9-8-21.5, the meaning set forth in
 42 IC 14-9-8-21.5.

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- 1 (4) For purposes of IC 14-9-9, the meaning set forth in
- 2 IC 14-9-9-3.
- 3 (5) For purposes of IC 14-12-1, the meaning set forth in
- 4 IC 14-12-1-1.
- 5 (6) For purposes of IC 14-12-2, the meaning set forth in
- 6 IC 14-12-2-2.
- 7 (7) For purposes of IC 14-12-3, the meaning set forth in
- 8 IC 14-12-3-2.
- 9 (8) For purposes of IC 14-13-1, the meaning set forth in
- 10 IC 14-13-1-2.
- 11 (9) For purposes of IC 14-13-2, the meaning set forth in
- 12 IC 14-13-2-3.
- 13 (10) For purposes of IC 14-16-1, the meaning set forth in
- 14 IC 14-16-1-30.
- 15 (11) For purposes of IC 14-19-8, the meaning set forth in
- 16 IC 14-19-8-1.
- 17 (12) For purposes of IC 14-20-1, the meaning set forth in
- 18 IC 14-20-1-3.
- 19 (13) For purposes of IC 14-20-11, the meaning set forth in
- 20 IC 14-20-11-2.
- 21 **(14) For purposes of IC 14-20-1.1, the meaning set forth in**
- 22 **IC 14-20-1.1-1.**
- 23 ~~(14)~~ (15) For purposes of IC 14-21-4, the meaning set forth in
- 24 IC 14-21-4-10.
- 25 ~~(15)~~ (16) For purposes of IC 14-22-3, the meaning set forth in
- 26 IC 14-22-3-1.
- 27 ~~(16)~~ (17) For purposes of IC 14-22-4, the meaning set forth in
- 28 IC 14-22-4-1.
- 29 ~~(17)~~ (18) For purposes of IC 14-22-5, the meaning set forth in
- 30 IC 14-22-5-1.
- 31 ~~(18)~~ (19) For purposes of IC 14-22-8, the meaning set forth in
- 32 IC 14-22-8-1.
- 33 ~~(19)~~ (20) For purposes of IC 14-22-34, the meaning set forth in
- 34 IC 14-22-34-2.
- 35 ~~(20)~~ (21) For purposes of IC 14-23-3, the meaning set forth in
- 36 IC 14-23-3-1.
- 37 ~~(21)~~ (22) For purposes of IC 14-24-4.5, the meaning set forth in
- 38 IC 14-24-4.5-2(5).
- 39 ~~(22)~~ (23) For purposes of IC 14-25-2-4, the meaning set forth in
- 40 IC 14-25-2-4.
- 41 ~~(23)~~ (24) For purposes of IC 14-25-10, the meaning set forth in
- 42 IC 14-25-10-1.

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~~(24)~~ **(25)** For purposes of IC 14-25-11-19, the meaning set forth in IC 14-25-11-19.

~~(25)~~ **(26)** For purposes of IC 14-25.5, the meaning set forth in IC 14-25.5-1-3.

~~(26)~~ **(27)** For purposes of IC 14-28-5, the meaning set forth in IC 14-28-5-2.

~~(27)~~ **(28)** For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-5.

~~(28)~~ **(29)** For purposes of IC 14-25-12, the meaning set forth in IC 14-25-12-1.

~~(29)~~ **(30)** For purposes of IC 14-32-8, the meaning set forth in IC 14-32-8-1.

~~(30)~~ **(31)** For purposes of IC 14-33-14, the meaning set forth in IC 14-33-14-3.

~~(31)~~ **(32)** For purposes of IC 14-33-21, the meaning set forth in IC 14-33-21-1.

~~(32)~~ **(33)** For purposes of IC 14-34-6-15, the meaning set forth in IC 14-34-6-15.

~~(33)~~ **(34)** For purposes of IC 14-34-14, the meaning set forth in IC 14-34-14-1.

~~(34)~~ **(35)** For purposes of IC 14-37-10, the meaning set forth in IC 14-37-10-1.

SECTION 4. IC 14-10-2-1, AS AMENDED BY P.L.246-2005, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. The commission may do the following:

(1) Take the action that is necessary to enable the state to participate in the programs set forth in 16 U.S.C. 470 et seq.

(2) Promulgate and maintain a state register of districts, sites, buildings, structures, and objects significant in American or Indiana history, architecture, archeology, and culture and expend money for the purpose of preparing comprehensive statewide historic surveys and plans, in accordance with criteria established by the commission, that comply with the standards and regulations promulgated by the United States Secretary of the Interior for the preservation, acquisition, and development of the properties.

(3) Establish in accordance with criteria established by the United States Secretary of the Interior a program of matching grants-in-aid to public agencies for projects having as their purpose the preservation for public benefit of properties that are significant in American or Indiana history, architecture,

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archeology, and culture.

(4) Accept grants from public and private sources, including those provided under 16 U.S.C. 470 et seq.

(5) Establish fees for the following:

(A) Programs of the department or the commission.

(B) **Subject to clause (E)**, facilities owned or operated by the department or the commission or a lessee of the department or commission.

(C) Licenses issued by the commission, the department, or the director.

(D) Inspections or other similar services under this title performed by the department or an assistant or employee of the department.

(E) Historic sites owned or operated by the department or the commission or a lessee of the department or commission.

(6) Adopt rules under IC 4-22-2 for the establishment of fees under subdivision (5).

SECTION 5. IC 14-20-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. The division may do the following:

(1) Undertake the action necessary to qualify the state for participation in sources of federal aid to preserve historic property, materials, items, sites, and memorials.

(2) Provide information on historic property, materials, items, sites, and memorials within Indiana to federal, state, and local governmental agencies, private individuals, and organizations.

(3) Advise and coordinate the activities of local historical associations, historic district commissions, historic commissions, and other interested groups or persons.

(4) Provide technical and financial assistance to local historical associations, historic district commissions, historic commissions, and other interested groups or persons.

(5) Develop a program of interpretation and publication of the state's historical, architectural, and archeological resources.

(6) Collect and preserve objects of scientific and cultural value representing past and present flora and fauna, the life and work of man, geological history, natural resources, the manufacturing arts, and fine arts.

(7) Make and execute contracts or other instruments that are necessary or convenient to exercise the division's duties and powers.

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(8) Establish and collect admission charges, fees, rent, and other user fees for the following:

(A) The state museums and historic sites.

(B) Restaurants and other facilities located at the state museums or historic sites.

(C) Programs, lectures, classes, tours, and trips provided at the state museums or historic sites.

(9) Employ or contract with a person to manage or operate any aspect of the state museums or historic sites.

(10) Make and sell merchandise, including publications, reproductions, educational and craft items, and souvenirs.

(11) Pay royalties, license fees, and charges for exhibits, artifacts, artwork, and other materials.

(12) Own and enforce the division's copyrights, trademarks, and service marks.

(13) Notwithstanding IC 5-22-22, under policies adopted by the division, sell, donate, or exchange artifacts in the division's collection to or with a public or nonprofit museum or historical society.

SECTION 6. IC 14-20-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22. The trustees shall do the following:

~~(1) Nominate, when the position of division director is vacant, a person to be appointed by the director to that position. If the director rejects a nominee's appointment, the trustees shall nominate another person.~~

~~(2) Recommend, when appropriate, the dismissal of a division director.~~

~~(3) Make recommendations concerning the salary ranges of the administrative, professional, and technical staff of the division.~~

~~(4) (1) Review the budget needs and requests of the division and make recommendations concerning the needs and requests to the governor through the director.~~

~~(5) (2) Recommend that the department accept or reject, hold, or dispose of grants of property to be administered by the division for the purpose of preservation, research, or interpretation of significant areas, events, or grants to citizens of Indiana for the purpose of preserving, studying, and interpreting archeological and natural phenomena, cultural trends, and accomplishments.~~

~~(6) (3) Review, guide, and assist in the development of statewide outreach programs.~~

~~(7) (4) Review, guide, and assist in the development of~~

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professionalism of the staff and operations.

~~(8)~~ (5) Review, recommend, and devise methods to enable the division to do the following:

~~(1)~~ (A) Increase the division's physical plant.

~~(2)~~ (B) Expand the educational areas.

~~(3)~~ (C) Meet storage needs.

~~(9)~~ (6) Develop a plan of growth to meet physical, program, and financial needs for both the immediate and long range future, monitor the plan at regular intervals, and ensure that the institution stays within the developed plan.

~~(10)~~ (7) Recommend policies, procedures, and practices that the commission, the director, and the secretary shall consider.

~~(11)~~ (8) Give advice or make recommendations to the governor and the general assembly when requested or on the initiative of the trustees.

~~(12)~~ (9) Review the conduct of the work of the division. To implement this duty, the trustees have access at any reasonable time to copies of all records pertaining to the work of the division.

~~(13)~~ (10) Adopt bylaws consistent with this chapter for the division's internal control and management and file a copy of the bylaws with the director.

~~(14)~~ (11) Hold meetings at the times and places in Indiana that are prescribed by the bylaws, but at least quarterly.

~~(15)~~ (12) Keep minutes of the transactions of each regular and special meeting and file the minutes with the director. The minutes are public records.

~~(16)~~ (13) Promote the welfare of the division.

~~(17)~~ (14) Make recommendations concerning the administration of the fund established by section 24 of this chapter.

SECTION 7. IC 14-20-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. (a) The state museum acquisition fund is established. The division shall administer the fund.

(b) The following shall be deposited in the fund:

(1) Gifts of money to the fund or the proceeds from the sale of gifts donated to the fund.

(2) The proceeds from sales ~~or leases~~ under ~~section 23~~ **section 23(c)** of this chapter.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) The expenses of administering the fund shall be paid from

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money in the fund.

(e) The division may, on recommendation of the trustees, purchase with money in the fund objects for the state museum collection. All money accruing to the fund is appropriated continuously for this purpose.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 8. IC 14-20-1.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 1.1. Historic Site Fund

Sec. 1. As used in this chapter, "fund" refers to the historic site fund established as a dedicated fund by section 2 of this chapter.

Sec. 2. (a) The historic site fund is established to provide funding for educational programs and the operation of historic sites. The fund shall be administered by the division of state museums and historic sites.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 3. (a) Fees collected under IC 14-10-2-1(5)(E) and proceeds from sales and leases under IC 14-20-1-23(b) shall be deposited in the fund.

(b) At least fifty-one percent (51%) of the fees collected under IC 14-10-2-1(5)(E) from a particular historic site must be used for:

- (1) educational programs conducted at the historic site; and**
- (2) the maintenance and operation of the historic site.**

SECTION 9. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "commissioner" refers to the commissioner of the department.**

(b) As used in this SECTION, "department" refers to the department of Indiana heritage and cultural resources established by IC 4-34.1-2-1, as added by this act.

(c) As used in this SECTION, "heritage and cultural agency" means any of the following:

- (1) The Indiana arts commission.**
- (2) The poet laureate, including the poet laureate selection committee (IC 1-2-12).**

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- 1 (3) The department of natural resources, division of historic
- 2 preservation and archeology.
- 3 (4) The department of natural resources, division of state
- 4 museums and historic sites.
- 5 (5) The Indiana historical bureau.
- 6 (6) The Indiana state library.
- 7 (7) The Indiana war memorials commission.
- 8 (8) The commission on public records.
- 9 (9) The Indiana department of administration, state house
- 10 tour office.
- 11 (10) The Indiana department of transportation, cultural
- 12 resources section, historic bridge marketing program.
- 13 (11) The Indiana state police museum.
- 14 (d) The powers and duties of each heritage and cultural agency
- 15 are transferred to the department.
- 16 (e) A reference to a heritage and cultural agency in a statute,
- 17 rule, or another document shall be treated as a reference to the
- 18 department.
- 19 (f) All the property of each heritage and cultural agency is
- 20 transferred to the department.
- 21 (g) An appropriation to a heritage and cultural agency in effect
- 22 after June 30, 2009, is transferred to the department.
- 23 (h) The personnel and positions of each heritage and cultural
- 24 agency are transferred to the department.
- 25 (i) The following shall report to the commissioner of the
- 26 department and administer their entities in compliance with the
- 27 policies and procedures as may be established by the department:
- 28 (1) The executive director of the Indiana arts commission.
- 29 (2) The director of the Indiana historical bureau.
- 30 (3) The director of the Indiana state library.
- 31 (4) The director of the commission on public records.
- 32 (5) The director of the division of state museums and historic
- 33 sites.
- 34 (6) The director of historic preservation and archeology.
- 35 (7) The poet laureate.
- 36 (j) The office of management and budget's division of
- 37 government efficiency and financial planning shall fully assist the
- 38 commissioner to organize the structure of the department in the
- 39 most efficient manner possible. The state personnel department
- 40 and the budget agency shall fully assist the department in
- 41 restructuring the department in accordance with the decisions of
- 42 the commissioner and the division of government efficiency and

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1 financial planning.
 2 (k) The commissioner shall prepare a report containing any
 3 legislative recommendations that are needed to:
 4 (1) amend statutory references to the department and the
 5 heritage and cultural agencies; and
 6 (2) assist in restructuring the department.
 7 The report must be delivered to the governor and the legislative
 8 council before October 1, 2009. The report delivered to the
 9 legislative council must be in an electronic format under IC 5-14-6.
 10 (l) This SECTION expires July 1, 2014.

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COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Senate Bill No. 524, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 524 as introduced.)

ALTING, Chairperson

Committee Vote: Yeas 10, Nays 0.

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